

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHEL W. VALENTINE, State Bar No. 153078
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-1034
Facsimile: (213) 897-2804

6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2008-336

12 HELEN JANICE RIESEN aka
HELEN JANICE COLWELL
13 306 F St., Apt A
Bakersfield, CA 93304
14 Registered Nurse License No. 255515

A C C U S A T I O N

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about January 1, 1975, the Board of Registered Nursing (Board)
23 issued Registered Nurse License Number 255515 to Helen Janice Riesen aka Helen Janice
24 Colwell (Respondent). The Registered Nurse License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on May 31, 2009, unless renewed.

26 ///

27 ///

28 ///

1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code (Code) unless
4 otherwise indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 22, subdivision (a) of the Code states:

7 (a) "Board" as used in any provisions of this Code, refers to the board
8 in which the administration of the provision is vested, and unless otherwise
9 expressly provided, shall include "bureau," "commission," "committee,"
"department," "division," "examining committee," "program," and "agency."

10 5. Section 125.3 of the Code provides, in relevant part, that the Board may
11 request the administrative law judge to direct a licensee found to have committed a violation or
12 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
13 and enforcement of the case.

14 6. Section 2750 of the Code provides, in relevant part, that the Board may
15 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
16 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

17 7. Section 2761 of the Code states:

18 The board may take disciplinary action against a certified or licensed nurse
19 or deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

21 (1) Incompetence, or gross negligence in carrying out usual
22 certified or licensed nursing functions.

23 (d) Violating or attempting to violate, directly or indirectly, or assisting in
24 or abetting the violating of, or conspiring to violate any provision or term of this
chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

25 **REGULATORY SECTION**

26 8. California Code of Regulations, title 16, section 1442, states:

27 As used in Section 2761 of the Code, "gross negligence" includes an
28 extreme departure from the standard of care which, under similar circumstances,
would have ordinarily been exercised by a competent registered nurse. Such an

1 extreme departure means the repeated failure to provide nursing care as required
2 or failure to provide care or to exercise ordinary precaution in a single situation
3 which the nurse knew, or should have known, could have jeopardized the client's
4 health or life.

5 FIRST CAUSE FOR DISCIPLINE

6 (Gross Negligence)

7 9. Respondent is subject to disciplinary action under Code section 2761,
8 subdivision (a)(1), for unprofessional conduct in the form of gross negligence, as defined in the
9 California Code of Regulations, title 16, section 1442.

10 10. The specific underlying facts are that on or about November 30, 2005,
11 Respondent was working in the Psychiatric Unit of Good Samaritan Hospital (Good Samaritan)
12 in Bakersfield, California.. At 6:15 a.m., Respondent and a nurse's aide found patient David W.¹
13 to be unresponsive and without a pulse. Although Good Samaritan policy requires that
14 cardiopulmonary resuscitation (CPR) measures be provided immediately when a patient is found
15 without a pulse, Respondent failed to provide CPR herself, failed to direct the nurse's aide or any
16 other personnel to provide CPR, and failed to provide any immediate basic lifesaving measures
17 whatsoever. Respondent further failed to call a Code Blue, a procedure through which
18 designated personnel are notified through the paging system that they are needed for urgent
19 lifesaving measures, including CPR. As a result of Respondent's failure to act, CPR and basic
20 lifesaving measures were not instituted until 6:30 a.m., fifteen minutes after Respondent found
21 patient David W. unresponsive. This 15-minute delay decreased the chance that CPR and basic
22 lifesaving measures would work. The lifesaving measures did not work, and patient David W.
23 was pronounced dead at 6:50 a.m. on November 30, 2005.

24 11. Respondent was grossly negligent in the following respects:

25 a. Respondent failed to insure that CPR was initiated without
26 delay, despite the fact that a Certified Nursing Assistant under her supervision was
27 present at patient David W's bedside. Moreover, Respondent's failure to insure

28 1. The patient's name is not set herein in order to protect the patient's privacy.

1 that CPR was initiated without delay decreased the chance that basic lifesaving
2 measures would work on patient David W.

3 b. Respondent was further grossly negligent in that she failed
4 to insure that a Code Blue was immediately called. Her failure to insure that a
5 Code Blue was immediately called and, thereby initiated without delay, decreased
6 the chance that basic lifesaving measures would work on patient David W.

7 12. The ordinarily responsible and prudent nurse in a similar situation, when
8 finding a patient with no palpable pulse and/or no discernible respirations, would have
9 immediately activated the Code Blue procedure and insured that CPR was initiated without
10 delay.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Violating Provisions of the Nursing Practice Act)**

13 13. Respondent is subject to disciplinary action under Code section 2761,
14 subdivision (d), for violating provisions of the Nursing Practice Act, as set forth above in
15 paragraphs 9-12.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein
18 alleged, and that following the hearing, the Board issue a decision:

19 1. Revoking or suspending Registered Nurse License Number 255515, issued
20 to Respondent;

21 2. Ordering Respondent to pay the Board of Registered Nursing the
22 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
23 125.3; and

24 ///

25 ///

26 ///


27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as is deemed necessary and proper.

DATED: 6/12/08



RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant